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**WORKMEN'S COMPENSATION—EMOTIONALLY CAUSED PEPTIC
ULCER RULED AN ACCIDENTAL INJURY WITHIN THE MEANING
OF THE WORKMEN'S COMPENSATION ACT. *Oklahoma City v.
Schoonover*, 535 P.2d 688 (Okla. 1975).**

In *Oklahoma City v. Schoonover*,¹ the Oklahoma Supreme Court expanded the concept of accidental injury under Oklahoma's Workmen's Compensation Act² to include a stomach ulcer caused by the emotional stress and strain of employment.

The decedent, Kenneth Schoonover, was a twenty-nine-year-old police officer. In 1964 he was treated for a peptic ulcer condition which had healed at the time of his employment in 1967. In 1970 he sought medical attention for a recurrence of his ulcer, and surgery became necessary in 1972. Although the surgery was successful, Schoonover died two days later from post-operative complications. Expert medical testimony indicated that Schoonover's medical problem was aggravated by the tension and stress involved in his daily work, and his death was attributed directly to the ulcer condition. The supreme court upheld the award of death benefits by the State Industrial Commission under the Workmen's Compensation Act. The primary issue was whether Schoonover's ulcer could be classified as an accidental injury within the meaning of the Oklahoma Act.³

In previous decisions,⁴ the Oklahoma courts have affirmed awards

1. 535 P.2d 688 (Okla. 1975).

2. OKLA. STAT. tit. 85, §§ 1 *et seq.* (1971).

3. "Every employer subject to the provisions of this Act shall pay . . . compensation . . . for the disability or death of his employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of his employment" OKLA. STAT. tit. 85, § 11 (1971). "Injury or personal injury" is defined as "only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined." OKLA. STAT. tit. 85, § 3(7) (1971).

4. *In re Death of Cleveland*, 531 P.2d 1396 (Okla. 1975) (installing chain link fence); *Black, Sivals & Bryson v. Bass*, 506 P.2d 902 (Okla. 1973) (lifting 100-pound pipes); *Flint Constr. Co. v. Downum*, 444 P.2d 200 (Okla. 1968) (carrying heavy boxes); *H.J. Jeffries Truck Line v. Grisham*, 397 P.2d 637 (Okla. 1964) (physical strain as truck driver); *Safeway Stores, Inc. v. Evans*, 376 P.2d 336 (Okla. 1962) (moving heavy cartons); *Kelley v. Enid Terminal Elevators*, 372 P.2d 589 (Okla. 1962) (strenuous physical activity in seventeen-degree cold); *Ben Hur Coal Co. v. Orum*, 366 P.2d 919 (Okla. 1961) (strenuous work in coal mine); *Safeway Stores v. Simons*, 331 P.2d 934 (Okla. 1958) (lifting heavy meat trays); *Macklanburg-Duncan Co. v. Edwards*, 311 P.2d 250 (Okla. 1957) (rubbing wood with steel wool); *Brentwood Egg Co. v. Coleman*, 298 P.2d 437 (Okla. 1956) (lifting heavy trash can); *Acme Material Co. v. Wheeler*, 278 P.2d 234 (Okla. 1954) (operating diesel shovel); *Liberty Glass Co. v. Guinn*, 265

based on accidental injuries caused by physical *and* mental strain. In extending the Act's coverage to include injuries caused solely by mental stress and strain, the court relied on *Bill Grover Ford Co. v. Roniger*.⁵ However, the court in *Roniger* stressed the fact that a combination of physical and mental strain precipitated the injury. In addition, the case authority used in *Roniger* similarly involved injuries of physical origin. While the decisions from other jurisdictions ostensibly support a "generally recognized principle" that a disability caused by emotional stress, strain or anxiety is compensable, these cases involved physical causes and/or unusual emotional stress beyond the level normally encountered during employment.⁶

The foundation of the court's analysis rests on its interpretation that *Roniger* and similar cases⁷ allowed compensation for injuries caused entirely by mental or emotional stress and strain. This interpretation can not be justified solely by relying on these cases, which dealt with injuries of a physical as well as mental origin. However, those courts did not directly confront the issue in terms of either entirely emotionally based injuries or ordinary stress and strain, and therefore *Schoonover* may be interpreted as merely extending previous holdings to fit a new factual situation, rather than distorting the rules announced in previous decisions.

In considering the nature of "stress" the court rejected a distinction between mental and physical stress and stated:

"[T]here is no fundamental difference in law or principle between an injury or death caused by the cutting or crushing of of a blood vessel in the brain through the application of external violence and the breaking of one through increased internal pressure due to the putting forth of an unusual or abnormal mental effort."⁸

P.2d 493 (Okla. 1953) (placing bottles on conveyor belt); *Choctaw County v. Bateman*, 208 Okla. 16, 252 P.2d 465 (1953) (shoveling gravel).

5. 426 P.2d 701 (Okla. 1967).

6. *Lobman v. Bernhard Altmann Corp.*, 19 App. Div. 2d 931, 244 N.Y.S.2d 425 (1963). "[C]laimant's 'work activity . . . involved unusual and considerable emotional stress, anxiety and tension . . .'" 19 App. Div. at —, 244 N.Y.S.2d at 427. *Fink v. City of Paterson*, 44 N.J. Super. 129, 129 A.2d 746 (Super. Ct. App. Div. 1957). "[T]he strain need not be physical or laborious in character but may consist of 'unusual emotional or nervous strain and anxiety.'" 44 N.J. Super. at —, 129 A.2d at 748. *Monohan v. Seeds & Durham*, 134 Pa. Super. 469, 3 A.2d 998 (1939). "[S]omething unexpected, fortuitous and not to be anticipated occurred in the course of the employee's work, calling for the putting forth of an extra effort or strain over and beyond that required by his usual and ordinary work." 134 Pa. Super. at —, 3 A.2d at 1002.

7. See note 4 *supra*.

8. 535 P.2d at 692, *quoting* *Monohan v. Seeds & Durham*, 134 Pa. Super. 469, 3 A.2d 998 (1939).

Under this definition of stress, it is evident that the decedent died as a result of an injury compensable under the Act. The decedent's employment as a policeman involved inherent danger, resulting in unusual emotional stress, and as the court noted, the

[s]tressful nature of a police officer's work cannot be denied. Occurrence of emotional and mental strain are a constant of the job, and are reasonably incident to the employment. . . . [A] causal connection exists between conditions under which deceased's work was performed and resulting injury.⁹

A more fundamental issue, not discussed by the court, is whether the ulcer was actually an occupational disease rather than an "injury." "Occupational disease" has been defined by the Oklahoma court in language which seems to apply to the facts in the *Schoonover* case.¹⁰ The court in *Schoonover* referred to the ulcer as a "disease" and characterized the nature of the stress in language similar to that used in previous definitions of "occupational disease."¹¹ If the ulcer in this case were classified as a disease, the extension of the *Roniger* principle would not be necessary. However, the Oklahoma statute does not list peptic ulcers among its compensable occupational diseases,¹² and it could therefore be argued that the legislative intent was to disallow compensation for such a disease.¹³

Regardless of the ultimate classification of emotionally caused ulcers, the Oklahoma Supreme Court has expanded the types of disabilities falling within the provisions of the Workmen's Compensation Act in two ways; first, by defining "accidental injury" to include disabilities of an entirely mental or emotional origin, and second, by implicitly suggesting the possibility of allowing compensation for occupational diseases not specifically enumerated in the statute.

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9. 535 P.2d at 692.

10. "[One] sustained in the course of employment where from the nature of the work such diseases are likely to be contracted . . ." *United States Gypsum Co. v. McMichael*, 146 Okla. 74, 75, 293 P. 773, 774 (1930); *St. Louis Mining & Smelting Co. v. State Indus. Comm'n*, 113 Okla. 179, 182, 241 P. 170, 172 (1925). "[A]n industrial or occupational condition caused by the character of [the] work . . ." *Campbell Bakeries v. Baumeister*, 160 Okla. 94, 95, 15 P.2d 989, 990 (1932).

11. "The emotional stress was engendered by the working conditions and nature of the employment." 535 P.2d at 691. "Occurrence of emotional and mental strain are a constant of the job, and are reasonably incident to the employment." *Id.* at 692.

12. See OKLA. STAT. tit. 85, § 3(16) (1971).

13. The dissent reached this conclusion. 535 P.2d at 692 (dissenting opinion).

